

**BEFORE**  
**THE PUBLIC SERVICE COMMISSION OF**  
**SOUTH CAROLINA**  
**DOCKET NO. 2010-137-C**

<b>In Re:</b>	)	
<b>Application of Big River Telephone</b>	)	
<b>Company, LLC for a Certificate of Public</b>	)	
<b>Convenience and Necessity to Provide</b>	)	<b>SETTLEMENT AGREEMENT</b>
<b>Resold Local Exchange, Access, and</b>	)	
<b>Interexchange Telecommunications</b>	)	
<b>Services and for Flexible and Alternative</b>	)	
<b>Regulation</b>	)	

This Settlement Agreement (“Settlement Agreement”) is made by and among the Office of Regulatory Staff (“ORS”) and Big River Telephone Company, LLC. (“Big River ” or “the Company”) (collectively referred to as the “Parties” or sometimes individually as “Party”);

WHEREAS, on April 6, 2010, Big River filed its Application requesting: (i) a Certificate of Public Convenience and Necessity be granted authorizing the Company to provide facilities based and resold local exchange services and interexchange; (ii) flexible regulation for its local exchange telecommunications services consistent with Order No. 98-165 in Docket No. 97-467-C; (iii) for interexchange service offerings to be regulated in accordance with procedures established for alternative regulation in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C; (iv) waiver of certain regulations of the Public Service Commission of South Carolina (“Commission”), specifically Regulation 103-610 regarding location of records, and 103-612.2.3 for operating maps; and (v) a waiver of any requirement to maintain financial records in conformance with the Uniform System of Accounts (“USOA”);

WHEREAS, on April 13, 2010, counsel for ORS entered a Notice of Appearance in this matter;

WHEREAS, on May 4, 2010, the Commission issued its Order No. 2010-299 by which the Commission appointed David Butler, Esquire as the Hearing Examiner in this matter;

WHEREAS on April 14, 2010, the Commission issued a Notice of Filing and Hearing and established a return date of May 17, 2010, for the filing of letters of protest or petitions to intervene and established a hearing date of June 14, 2010 for the application to be heard before a hearing examiner;

WHEREAS, on May 17, 2010, South Carolina Telephone Coalition (SCTC) filed a petition to intervene and later filed a stipulation on June 1, 2010;

WHEREAS, on May 17, 2010, the Company filed the direct testimony of Gerard J. Howe with the Commission;

WHEREAS, the purpose of this proceeding is to review the application filed by the Company and its requests: (i) for a Certificate of Public Convenience and Necessity to provide facilities based and resold local exchange and interexchange services within the State of South Carolina; (ii) for flexible regulation for its local exchange telecommunications services consistent with Order No. 98-165 in Docket No. 97-467-C; (iii) for waiver of certain of the Commission Regulations, specifically Regulation 103-610 regarding location of records, and Regulation 103-631 concerning publishing and distributing local exchange directories, (iv) 1103-612.2.3 for operating maps; and (v) for waiver of any requirement to maintain financial records in conformance with the USOA;

WHEREAS, since the filing of the notice, ORS has conducted a review of the technical, managerial, and financial expertise of the Company to provide the services requested in the Application;

WHEREAS, ORS has reviewed the Application and the financial data provided by the Company, and ORS has calculated certain performance ratios based upon information provided by the Company;

WHEREAS, ORS has investigated the services to be offered by the Company and its intended customer service plans;

WHEREAS, ORS has reviewed the proposed tariffs submitted by the Company;

WHEREAS, ORS has reviewed the pre-filed testimony of Gerard J. Howe.;

WHEREAS, as a result of its investigations, ORS has determined: (a) the Company intends to offer facilities based and resold local services such as basic local service, custom calling features, traditional end-to-end business services including local and long distance calling, interexchange toll services to residential customers, IP based offerings, conference calling, private line and other high capacity services; (b) the Company's officers possess sufficient technical and managerial abilities to adequately provide the services applied for; (c) the Company's proposed tariffs with the amendments as agreed to in this Settlement Agreement comply with Commission statutes and regulations; (d) the services provided by the Company will meet the service standards required by the Commission; (e) the provision of services by the Company will not adversely impact the availability of affordable telecommunications services; (f) to the extent it is required to do so by the Commission, the Company will participate in the support of universally available telephone service at affordable rates; and (g) the provision of local services by the Company will not adversely impact the public interest;

WHEREAS, to ensure compliance with the Commission's statutes and regulations, the Parties have agreed to the following comprehensive settlement of all issues in this docket;

WHEREFORE, in the spirit of compromise, the Parties hereby stipulate and agree to the following terms and conditions:

- 1) The Parties agree that Big River 's Application and exhibits to the Application are incorporated into this Settlement Agreement and made a part hereof;
- 2) The Parties agree to stipulate into the record before the Commission this Settlement Agreement. The Parties also agree to stipulate to the pre-filed testimony of the Company's witness Gerard J. Howe without cross-examination by ORS;
- 3) The Company submitted financial data, which was provided as Exhibit 4 to its Application, and which financial data is incorporated by reference;
- 4) The Company asked for protective treatment of the Financial Statements, Exhibit 4 of the application; on April 21, 2010 Directive Re: Motion for Protective Treatment, protective treatment was granted.
- 5) The Parties agree that the Company should be granted a Certificate of Public Convenience and Necessity to provide facilities based, interexchange, and resold local exchange telecommunications services within the state of South Carolina;
- 6) The Company has requested a waiver of 26 S.C. Code Ann. Regs. 103-610 concerning the location of books and records. However, S.C. Code Ann. §58-9-380 (Supp. 2008) provides that:

Each telephone utility shall have an office in one of the counties of this State in which its property or some part thereof is located and shall keep in such office all such books, accounts, papers and records as shall reasonably be required by the Office of Regulatory Staff. No books, accounts, papers or records required by the ORS to be kept within the State shall be removed at any time from the

State except upon such conditions as may be prescribed by the Office of Regulatory Staff.

ORS is agreeable to allowing the Company to maintain its books and records outside of the State of South Carolina in exchange for the Company agreeing to provide access to its books and records. ORS is agreeable to the Company maintaining its books and records at its principal offices in the State of Missouri, and the Company agrees to notify the ORS of any change in the location of the principal office or in the location where the books and records are maintained. This provision of the Settlement Agreement shall not be construed as a waiver by ORS of S.C. Code Ann. § 58-4-55 (Supp. 2008) or § 58-9-1070 (Supp. 2008). ORS expressly reserves its rights to require the production of books, records and other information located within or outside of the State of South Carolina in order to carry out its duties and compliance with any state or federal regulation;

7) The Company has requested a waiver of any rule or regulation that might require a carrier to maintain its financial records in conformance with the Uniform System of Accounts (“USOA”). The Company acknowledges that S.C. Code Ann. § 58-9-340 (Supp. 2008) provides that the ORS may, in its discretion and subject to the approval of the Commission, prescribe systems of accounts to be kept by telephone utilities subject to the commission’s jurisdiction and that the ORS may prescribe the manner in which the accounts shall be kept and may require every telephone utility to keep its books, papers, and records accurately and faithfully according to the system of accounts as prescribed by the ORS. The Company agrees to keep its books, papers, and records in such a manner that permits ORS to audit its revenues and expenses associated with its South Carolina operations for compliance with programs such as but not limited to the Universal Service Fund (“USF”), the Interim LEC Fund, dual party relay service fund, and gross receipts. The Company agrees to complete the reporting forms for such programs

as but not limited to USF, dual party relay service fund, Interim LEC, and gross receipts as may be required by the ORS of telecommunications companies certificated to operate within South Carolina and as the reporting forms may be amended from time to time;

8) ORS does not oppose Big River's requests (a) for flexible regulation for its local telecommunications service offerings consistent with Order No. 98-165 in Docket No. 97-467-C, such flexible regulation including specifically (i) adoption of a competitive rate structure incorporating maximum rate levels with the flexibility for rate adjustment below the maximum rate levels and (ii) presumptively valid tariff filings upon filing subject to an investigation of such tariff filing being instituted within thirty (30) days and (b) for alternative regulation of its interexchange service offerings consistent with the procedures described and set forth in Orders 95-1734 and 96-55 in Docket No. 96-661-C as modified by Order No. 2001-997 in Docket No. 2000-407-C, specifically (i) regulation of these services listed above in the same manner as these services are regulated of AT&T Communications of the Southern States, Inc., (ii) removal of the maximum rate tariff requirements for Big River's business services, private line, and customer network-type offerings, except in instances governed by Order No. 2001-997 which reinstituted maximum rates for surcharges and rates associated with certain intrastate operator-assisted calls; (iii) presumptively valid tariff filings for these interexchange services unless an investigation of a particular filing is instituted within seven (7) days, in which case the tariff filing will be suspended until resolution of the investigation or until further order of the Commission; and (iv) grant Big River the same treatment as AT&T Communications of the Southern States, Inc. in connection with any future relaxation of reporting requirements;

9) ORS does not oppose the Company's request for waiver of 26 S.C. Code Ann. Regulation 103-612.2.3 which requires the filing of operating area maps;

10) ORS does not oppose the Company's requests: (a) for flexible regulation for its local telecommunications service offerings consistent with Order No. 98-165 in Docket No. 97-467-C, such flexible regulation including specifically (i) adoption of a competitive rate structure incorporating maximum rate levels with the flexibility for rate adjustment below the maximum rate levels and (ii) presumptively valid tariff filings upon filing subject to an investigation of such tariff filing being instituted within thirty (30) days .

11) The Company agrees to resell the services only of those local exchange providers authorized to do business in South Carolina by the Commission. The Company agrees to notify ORS and the Commission, in writing, of its underlying carriers and if Big River changes its underlying carriers;

12) The Company agrees to file necessary financial information with the Commission and ORS for universal service fund reporting, dual party relay service fund reporting, interim LEC fund reporting, annual reporting, gross receipts reporting, and/or any other reporting which may now or in the future be applicable to telecommunications providers such as Big River . The Parties agree that such reports shall be filed pursuant to ORS's instructions and monies shall be remitted in accordance with the directions of the ORS and the Commission requirements.

13) The Company agrees to maintain its books and records associated with its South Carolina operations in a manner that would permit ORS to examine any of Big River's reports filed with the Commission and provided to ORS.

14) The Company agrees to file with the Commission and ORS a completed authorized utility representative forms within thirty (30) days of the Commission's order.

15) In the event that the Company offers prepaid calling card services in the future, Big River agrees that it shall obtain Commission approval and post a surety bond in the amount of \$5,000 as required by the Commission;

16) In the event that the Company expands its authority and offers prepaid local exchange service, Big River agrees to comply with South Carolina Regulation 103-697 in that they will obtain a bond, irrevocable letter of credit, or certificate of deposit per the Commission's request.

17) The Company agrees to comply with South Carolina Code Ann. § 58-9-300 entitled "Abandonment of Service." Additionally, to the extent applicable, Big River agrees to adhere to the FCC's rule 47 C.F.R. § 64.1190 and 64.1130 regarding preferred carrier freezes and the requirement that the form of the written authorization for the institution of the freeze be a separate or easily separable document. Prior to abandonment of service, the Company shall remove any preferred carrier freeze so as to enable consumers to seamlessly transfer their telephone numbers to another provider;

18) To the extent necessary, the Company agrees to engage in good faith negotiations with non-BellSouth incumbent local exchange carriers whose networks interconnect with BellSouth at the same local tandem regarding traffic exchange;

19) The Company agrees to comply with Title 23, Chapter 47 of the South Carolina Code Annotated, which governs the establishment and implementation of a "Public Safety Communications Center," also known as 911 services." At the time the Company offers or provides any service that would implicate Title 23, Chapter 47, the Company agrees to contact the appropriate authorities regarding 911 services in the counties and cities where it will be operating prior to initiating local service in South Carolina and shall provide the 911 coordinator



in each county and/or city with information regarding the Company's operations. Attached as Exhibit 1 to this Settlement Agreement is a memorandum from the State 911 Office which provides contact information for the County 911 Coordinators;

20) The Company agrees to comply with all rules and regulations of the Commission unless the Commission has expressly waived such rule or regulation;

21) The Company agrees to file a final revised tariff with both the ORS and the Commission within thirty days of the Commission Order granting certification, and the revised tariff shall reflect and be in accordance with ORS's recommendations. Further, the Company agrees to file and maintain its tariff with the Commission electronic tariff filing system.

22) ORS is charged by law with the duty to represent the public interest of South Carolina pursuant to S.C. Code § 58-4-10 (B). S.C. Code § 58-4-10(B)(1) through (3) read in part as follows:

... 'public interest' means a balancing of the following:

- (1) concerns of the using and consuming public with respect to public utility services, regardless of the class of customer;
- (2) economic development and job attraction and retention in South Carolina; and
- (3) preservation of the financial integrity of the State's public utilities and continued investment in and maintenance of utility facilities so as to provide reliable and high quality utility services.

ORS believes the Settlement Agreement reached among the Parties serves the public interest as defined above;

23) The Parties agree to advocate that the Commission accept and approve this Settlement Agreement in its entirety as a fair, reasonable and full resolution of all issues in the above-captioned proceeding and that the Commission take no action inconsistent with its adoption. The Parties further agree to cooperate in good faith with one another in recommending

to the Commission that this Settlement Agreement be accepted and approved by the Commission. The Parties agree to use reasonable efforts to defend and support any Commission order issued approving this Settlement Agreement and the terms and conditions contained herein.

24) The Parties represent that the terms of this Settlement Agreement are based upon full and accurate information known as of the date this Settlement Agreement is executed. If, after execution, either Party is made aware of information that conflicts, nullifies, or is otherwise materially different than that information upon which this Settlement Agreement is based, either Party may withdraw from the Settlement Agreement with written notice to the other Party;

25) The Parties agree that signing this Settlement Agreement will not constrain, inhibit, impair or prejudice their arguments or positions held in other collateral proceedings, nor will it constitute a precedent or evidence of acceptable practice in future proceedings. If the Commission declines to approve the Settlement Agreement in its entirety, then any Party desiring to do so may withdraw from the Settlement Agreement in its entirety without penalty or obligation.

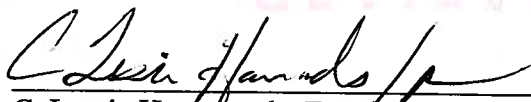
26) This Settlement Agreement shall be interpreted according to South Carolina law.

27) The above terms and conditions fully represent the agreement of the Parties hereto. Therefore, each Party acknowledges its consent and agreement to this Settlement Agreement by affixing its signature or by authorizing counsel to affix his or her signature to this document where indicated below. Counsel's signature represents his or her representation that his or her client has authorized the execution of the agreement. Facsimile signatures and email signatures shall be as effective as original signatures to bind any party. This document may be signed in counterparts, with the original signature pages combined with the body of the document constituting an original and provable copy of this Settlement Agreement. The Parties

agree that in the event any Party should fail to indicate its consent to this Settlement Agreement and the terms contained herein, then this Settlement Agreement shall be null and void and will not be binding on any Party.

WE AGREE:

**Representing the Office of Regulatory Staff**

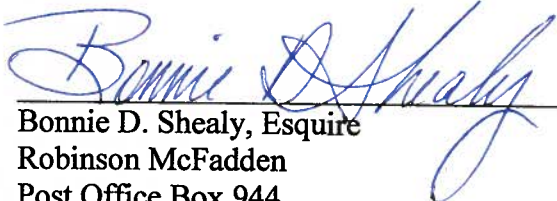


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6/9/10  
Date

WE AGREE:

**Representing Big River Telephone Company, LLC**



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June 8, 2010  
Date


**BEFORE**  
**THE PUBLIC SERVICE COMMISSION**  
**OF SOUTH CAROLINA**  
**DOCKET NO. 2010-137-C**

IN RE:	Application of Big River Telephone	)	
	Company, LLC for a Certificate of Public	)	
	Convenience and Necessity to Provide Resold	)	<b>CERTIFICATE OF</b>
	and Facilities-Based Local Exchange, Access,	)	<b>SERVICE</b>
	and Interexchange Telecommunications	)	
	Services in the State of South Carolina and	)	
	for Flexible and Alternative Regulation	)	

This is to certify that I, Chrystal L. Morgan, have this date served one (1) copy of the **SETTLEMENT AGREEMENT** in the above-referenced matter to the person(s) named below by causing said copy to be deposited in the United States Postal Service, first class postage prepaid and affixed thereto, and addressed as shown below:

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Post Office Box 944  
Columbia, SC, 29202

M. John Bowen, Jr., Esquire  
Margaret M. Fox, Esquire  
Sue-Ann Gerald Shannon, Esquire  
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Columbia, SC, 29211

  
Chrystal L. Morgan

June 9, 2010  
Columbia, South Carolina